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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,504	03/10/2005	Matthew Aitkenhead	105SR-022	9943
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BRADLEY N. RUBEN, PC 463 FIRST ST, SUITE 5A HOBOKEN, NJ 07030			EXAMINER WOLLSCHLAGER, JEFFREY MICHAEL	
			ART UNIT 1791	PAPER NUMBER
			MAIL DATE 01/07/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/527,504	Applicant(s) AITKENHEAD, MATTHEW	
	Examiner Jeff Wollschlager	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-36 is/are rejected.
- 7) ☒ Claim(s) 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/ are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

It is noted for the record that Examiner Wollschlager has assumed responsibility for this application from Examiner Sanders.

Response to Amendment

Applicant's amendment to the claims filed October 17, 2007 has been entered. Claims 1-23 have been canceled. Claims 24-36 are new.

Claim Objections

Claim 24 is objected to because of the following informalities: at line 9 in claim 24, the recitation "part of all of" should be rendered - - part or all of - - . Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 34 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 34, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wheatley (US 6,673,409) in view of Maleeny et al. (US 6,375,966) and Hornsby et al. (US 6,409,019).

Regarding claims 24-27, Wheatley teaches a method of producing a frictional holding pad/flexible retaining device wherein the holding device is molded of polyurethane material (Abstract; Figure 1; col. 2, lines 26-65; col. 3, lines 5-10). The frictional pad has a tacky surface (col. 4, lines 7-17; col. 6, lines 46-62). The examiner notes that by the use of the word "molded" in the reference, it is intrinsic or at least implicit that the teaching of Wheatley includes providing a mold, adding the polyurethane material to the mold and forming the material within the mold prior to removing the material from the mold. Wheatley does not teach using the mold as part of the packaging for the frictional holding pad by covering the mold.

However, Maleeny et al. teach a method of forming a decorative or functional polyurethane based fragranced/air freshening product (Abstract; col. 5, lines 54-col. 6, lines 9; col. 7, lines 50-62) wherein the mold employed to shape the polyurethane can be used to form part of the consumer package (e.g. a blisterpack) (col. 10, lines 34-42). Further, as evidenced by Hornsby et al., a "blisterpack"/consumer packaging includes a covering to contain the product (Figure 2).

Therefore it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have modified the teaching of Wheatley and to have

employed the mold used to form the molded polyurethane product as part of the packaging material as suggested by Maleeny et al. for the purpose, as suggested by Maleeny et al., of realizing improved processing efficiencies.

As to claim 28, Wheatley discloses indentations and protrusions may be provided to engage an object (col. 5, lines 10-15).

As to claim 29, the protrusions of Wheatley intrinsically can assist in gripping the central spindle of a CD.

As to claim 30, the frictional holding pad incorporates various decorative features including indicia, logos and advertisements (col. 6, lines 6-16).

As to claim 31, Wheatley et al. teach the backing layer of the holding pad may also have indicia applied to it (col. 4, lines 31-54).

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wheatley (US 6,673,409) in view of Maleeny et al. (US 6,375,966) and Hornsby et al. (US 6,409,019), as applied to claims 24-31 above, and further in view of Wheatley et al. (US 7,137,570). *Note: This is an alternative rejection of claim 29.*

As to claim 29, the combination teaches the method set forth above. Alternatively, Wheatley et al. '570 teach a method wherein a CD may be gripped by the polymeric gel material (Abstract; Figures 9-13 and 15; col. 7, lines 1-8).

Therefore it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have modified the teaching of Wheatley '409 with the teaching of Wheatley et al. '570 and to have provided a method of gripping a CD as claimed, for the purpose as suggested by Wheatley et al. '570 of expanding the various application for Wheatley's '409 holding pad.

Claims 32 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wheatley (US 6,673,409) in view of Maleeny et al. (US 6,375,966) and Hornsby et al. (US 6,409,019), as applied to claims 24-31 above, and further in view of Fabo (US 5,891,076).

As to claims 32 and 36, the combination teaches the method set forth above. Wheatley does not teach incorporating a non-elastic deformable material in his tacky gel holding pad. However, Fabo teaches employment of a flexible carrier sheet in a tacky gel application wherein the carrier sheet enables bending the tacky gel as desired (Abstract; Figures 1 and 2; col. 1, lines 66-col. 2, lines 24).

Therefore it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have modified the teaching of Wheatley and to have employed a flexible carrier sheet as suggested by Fabo for the purpose of further facilitating bending of Wheatley's frictional holding pad.

Claims 32, 33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wheatley (US 6,673,409) in view of Maleeny et al. (US 6,375,966) and Hornsby et al. (US 6,409,019), as applied to claims 24-31 above, and further in view of Chen (US 7,193,002).

As to claims 32, 33, and 36, the combination teaches the method set forth above. Wheatley does not teach incorporating a non-elastic deformable material in his tacky gel holding pad. However, Chen teaches employment of wire screen in the production of adherent gels to form gels that are useful for protecting articles (Abstract).

Therefore it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have modified the teaching of Wheatley and to have

employed a wire screen as suggested by Chen for the purpose of facilitating reinforcement and bending of Wheatley's frictional holding pad.

Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wheatley (US 6,673,409) in view of Maleeny et al. (US 6,375,966) and Hornsby et al. (US 6,409,019), as applied to claims 24-31 above, and further in view of either of Blum et al. (US 2002/0068147) or Castle et al. (US 5,848,830).

As to claims 34 and 35, the combination teaches the method set forth above. Wheatley does not teach employment of a sound generating component. However, each of Blum et al. (Abstract; paragraph [0098]) and Castle et al. (Abstract; col. 4, lines 30-42) disclose mats/pads that employ sound generating equipment.

Therefore it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have modified the method of Wheatley and to have employed sound generating equipment as suggested by either of Blum et al. or Castle et al., for the purpose of providing additional advertising and promotional features in Wheatley's holding pad.

Claims 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jonas (US 5,053,274) in view of Maleeny et al. (US 6,375,966) and Hornsby et al. (US 6,409,019).

Regarding claims 24-27, Jonas teaches a method of producing an antiskid polyurethane gel based product by casting the material into a rigid or flexible mold and gelling the polyurethane into a shape of any configuration, texture and color (Abstract; col. 6, lines 12-65; col. 7, line 18; col. 7, line 59). Jonas does not teach using the mold as part of the packaging for the frictional holding pad by covering the mold.

However, Maleeny et al. teach a method of forming a decorative or functional polyurethane based fragranced/air freshening product (Abstract; col. 5, lines 54-col. 6, lines 9; col. 7, lines 50-62) wherein the mold employed to shape the polyurethane can be used to form part of the consumer package (e.g. a blisterpack) (col. 10, lines 34-42). Further, as evidenced by Hornsby et al., a "blisterpack"/consumer packaging includes a covering to contain the product (Figure 2).

Therefore it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have modified the teaching of Jonas and to have employed the mold used to form the molded polyurethane product as part of the packaging material as suggested by Maleeny et al. for the purpose, as suggested by Maleeny et al., of realizing improved processing efficiencies.

As to claim 28, Jonas teaches that various shapes may be produced (Figure 4)

Response to Arguments

Applicant's arguments filed October 17, 2007 have been considered but are moot in view of the new ground(s) of rejection. However, the examiner notes that Jonas employs the same claimed plastic material required by dependent claim 25, polyurethane (Abstract), and that the plastic product has "anti-skid" properties (col. 7, line 59) and is "skid resistance" (col. 7, line 18). Additionally, the material contains "friction modifiers" (col. 6, lines 49), as needed, to achieve the desired result. Accordingly, it is submitted that the material disclosed by Jonas "inherently possesses adhesive properties" as required by new claim 24.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff Wollschlager whose telephone number is 571-272-8937. The examiner can normally be reached on Monday - Thursday 7:00 - 4:45, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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JW

Jeff Wollschlager
Examiner
Art Unit 1791

January 3, 2008


CHRISTINA JOHNSON
SUPERVISORY PATENT EXAMINER